

Message Text

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TAGS: EEC, EGEN, EIND, ETRD

SUBJECT: ANTITRUST: PARTICIPATION BY SUBSIDIARIES OF
US COMPANIES IN EC COMMISSION'S INDUSTRIAL
POLICY CONSULTATION

1. THE EC COMMISSION, IN REPLY TO A QUESTION RAISED BY AN
EC PARLIAMENTARIAN, HAS SAID THAT PARTICIPATION OF
SUBSIDIARIES OF US COMPANIES IN JOINT CONSULTATIONS
ORGANIZED BY THE COMMISSION SHOULD NOT RAISE ANY PROBLEMS
FOR US ANTITRUST AUTHORITIES, ALTHOUGH IT APPEARS TO
RECOGNIZE THAT US ANTITRUST LAW MAY BE MORE STRINGENT.
MISSION RECOMMENDS THAT US/EC ANTITRUST CONSULTATIONS IN
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SEPTEMBER SEEK TO ADDRESS THIS PROBLEM IN ORDER TO AVOID
POTENTIAL MISUNDERSTANDINGS RE US ANTITRUST LAW AND/OR
DISCRIMINATORY TREATMENT TOWARDS US MULTINATIONALS.

2. TEXT OF EC PARLIAMENTARY QUESTION AND COMMISSION
RESPONSE FOLLOWS.

BEGIN TEXT: SUBJECT: PARTICIPATION BY SUBSIDIARIES OF AMERICAN COMPANIES IN COMMUNITY CONSULTATIONS

THE COMMISSION IS CURRENTLY ENGAGED IN A SERIES OF JOINT CONSULTATIONS WITH VARIOUS SECTORS OF THE ECONOMY AND IN PARTICULAR WITH THE SYNTHETIC FIBRE, AUTOMOBILE AND OIL INDUSTRIES. A NUMBER OF THE UNDERTAKINGS TAKING PART IN THESE CONSULTATIONS ARE EUROPEAN SUBSIDIARIES OF NON-EUROPEAN COMPANIES.

FEAR OF THE POSSIBLE EXTRA-TERRITORIAL IMPLICATIONS OF AMERICAN ANTI-TRUST LEGISLATION HAS MADE EUROPEAN SUBSIDIARIES OF AMERICAN COMPANIES VERY RELUCTANT TO TAKE AN ACTIVE PART IN THESE CONSULTATIONS.

DOES THE COMMISSION NOT FEEL THAT IT SHOULD COME TO AN ARRANGEMENT WITH AMERICAN ANTI-TRUST AUTHORITIES UNDER WHICH THESE AUTHORITIES UNDERTAKE TO RAISE NO OBJECTIONS TO PARTICIPATION BY SUBSIDIARIES OF AMERICAN COMPANIES IN THE JOINT CONSULTATIONS ORGANIZED BY THE COMMISSION?

ANSWER TO WRITTEN QUESTION NO. 109/78 BY MR. COUSTE:

THE COMMISSION FEELS THAT THE PARTICIPATION BY EUROPEAN SUBSIDIARIES OF AMERICAN COMPANIES IN JOINT CONSULTATIONS ORGANIZED BY THE COMMISSION SHOULD NOT RAISE ANY PROBLEMS
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AS REGARDS THE APPLICATION OF ANTITRUST LEGISLATION. ANY NATIONAL OR INTERNATIONAL AUTHORITY MAY, IN THE PERFORMANCE OF ITS DUTIES, HAVE TO DEVELOP CONTACTS WITH AN ENTIRE INDUSTRY. THERE WOULD, IN SUCH A CASE, BE NO GROUNDS FOR EXCLUDING SOME FIRMS FROM THIS CONSULTATION PROCEDURE SIMPLY BECAUSE THEY BELONG TO AN AMERICAN GROUP.

THE COMMISSION SEES NO NEED FOR A SPECIAL ARRANGEMENT WITH THE AMERICAN ANTI-TRUST AUTHORITIES TO ALLOW EUROPEAN SUBSIDIARIES OF AMERICAN COMPANIES TO TAKE PART IN CONSULTATIONS WHICH ARE A STANDARD PRACTICE IN DEALING WITH COMMUNITY PROBLEMS. IF, HOWEVER, FOR FEAR OF PROCEEDINGS UNDER AMERICAN ANTI-TRUST LEGISLATION THESE FIRMS PREFER NOT TO TAKE PART IN SUCH CONSULTATIONS, THE COMMISSION CAN ONLY ABIDE BY THIS DECISION. END TEXT.

3. MISSION COMMENT: THE EC COMMISSION HAS TAKEN AN ACTIVIST APPROACH TO INDUSTRIAL POLICY AND THIS HAS POSED PROBLEMS FOR SUBSIDIARIES OF US COMPANIES OPERATING UNDER TWO DIFFERENT ANTITRUST SYSTEMS. WE DO NOT SEE A PROBLEM DEVELOPING BETWEEN THE US AND THE EC ON THIS ISSUE, BUT IT COULD BE USED BY EUROPEAN-BASED FIRMS TO DRIVE A

WEDGE BETWEEN THE COMPANIES AND THE COMMISSION. THE MISSION RECOMMENDS THEREFORE THAT WASHINGTON OFFICIALS TAKE ADVANTAGE OF THE US/EC ANTITRUST CONSULTATIONS TENTATIVELY SCHEDULED FOR SEPTEMBER TO MAKE SURE THEIR EC COMMISSION COUNTERPARTS UNDERSTAND US POLICIES IN THIS AREA. IN ADDITION TO REDUCING THE POSSIBILITY OF DISCRIMINATORY ISOLATION OF SUBSIDIARIES OF US COMPANIES, A CLEARER APPRECIATION OF US ANTITRUST CONSTRAINTS MIGHT SLOW A TREND TOWARDS CARTELIZATION IN INDUSTRIES WHERE THESE COMPANIES PLAY AN IMPORTANT ROLE. HINTON

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